Supreme Court, U.S.
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No. _____

In the Supreme Court of the United States

October term 1996

VINEY K. GUPTA; SAROJ GUPTA,
Petitioners,
v.
COMMISSIONER OF INTERNAL REVENUE,
Respondent.

On Petition for Writ of Certiorari
for the U.S. Court of Appeals for the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Tax Court decision should be reversed or abated under *Taxpayer Bill of Rights 2*, where settlement agreement was *ambiguous* with respect to *omitted deductions* [*moving expenses* (**$13,950** *for year 1990), travel expenses* (**$2,880** *for year 1990,* **$22,560** *for year 1991), and loss on sale of business property* (**$28,500** *for 1989)],* IRS attorney *lied* to the tax court *that "all issues are settled",* Tax Court *ordered* petitioners to object within three weeks to entry of decision, but *irregularities* in tax court proceedings resulted in premature decision *without* considering or determining omitted deductions before petitioners filed objections ?

2. Should the petitioner be awarded a claim for tax refund of **$43,235.00** under *28 U.S.C. sect 1346(a)*, by including omitted deductions as a conditon of the settlement agreement and by abating tax, interest, and penalty for the permanently disabled taxpayer to avoid *manifest injustice ?*

3. Should the petitioner be awarded civil damages up to one million dollars under *26 U.S.C. sect. 7433,* for *unauthorized collection* by IRS of **$82,906** from petitioner using threat of levy, where the IRS and Tax Court *knew* that Tax Court decision was

erroneous for omitting material deductions, denial of all business deduction for petitioner's three *businesses (licensed daycare, construction, import/export)* was tainted with racial bias of the muslim IRS auditor, *Nafisa Kasubhai* (motivated by the *Hindu-Muslim riots* in Decemebr 1992 in India and *IRS's* radio announcement that *"Asians do not pay enough taxes"),* the petitioner has *permanent physical disability* and his disability was *aggravated* by IRS misconduct and erroneous tax court decision, and the Tax Division's *Tamra Shottenstein* had *offered* the petitioner 10% abatement in Tax Court decision, while appeal of the Tax Court decision was *pending* before the Court of Appeals.

4. Does the erroneous Tax Court decision violate **equal protection** rights of a disabled taxpayer under the *Fifth Amendement* to the United States Constitution, by omitting and denying judicial determination of *material* tax dedudctions because of his permanent physical disability and by denying determination of whether omitted deductions should be included as a condition of the settlement agreement, after Tax Court confirmed petitioner's *multiple sclerosis* and potential harm to his health ?

5. Does the IRS owe a **duty** to taxpayers with multiple sclerosis for neutral and fair determination of the facts to resolve a tax dispute, without unreasonable delay if it will more likely than not aggravate his disability, where IRS agents lack *neutrality,*

engage in *unauthorized practice of law,* and indulge in prejudicial *speculation* of facts, while the Internal Revenue Code allows too many years to assess and collect taxes including the harsh rate of interest and penalty, causing wasteful years of delay ?

6. Should the Internal Revenue Code with harsh rate of interest and penalty on taxes assessed, and a three-year statute of limitations be deemed **unconstitutional as applied** to taxpayers with *multiple sclerosis,* where IRS agents, auditors, and appeals officers intentionally refuse and delay the due process opportunity to find facts, stipulate documents, resolve and settle tax dispute, with *reckless disregard* to the life of the disabled taxpayer ?

7. Whether IRS agents conspired together to discriminate and deprive disabled taxpayer of property on account of race and disability ?

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PETITION FOR WRIT OF CERTIORARI

Petitioner *Viney Gupta*, an individual taxpayer, respectfully prays that a *Writ of Certiorari* issue to review the judgment and opinion of the *United States Court of Appeals for the Ninth Circuit* entered in this proceeding on March 11, 1997.

OPINION BELOW

The *opinion* of the United States Court of Appeals for the Ninth Circuit ("Ninth Circuit") was *not* published and is reprinted in the Appendix hereto on page A-1. The *Order and Decision* of the Tax Court is reprinted on pages A-3 and A-4, respectively.

JURISDICTION

On July 12, 1995, the Tax Court issued an *Order* at page A-3, allowing petitioners until **August 2, 1995** to *"notify the Court of any objection to the granting of respondent's motion, and if there is an objection, specifically stating to which item the objections goes and the basis of the objection."* On July 24, 1995, petitioners submitted *objections* (for filing) that certain material deductions were missed or *not accounted for* by the ambiguous and incomplete settlement agreement, but the Tax Court clerk returned them without filing, because Tax Court had rendered a premature

decision on **July 18, 1995,** before the August 2, 1995, in violation of its own order.

On March 11, 1997, the Court of Appeals affirmed the Tax Court decision. On April 18, 1997, the Ninth Circuit Panel denied petition for rehearing by overlooking *materiality* of deductions omitted by settlement agreement, *irregularities* in tax court proceedings and underlying *collateral issues,* and and recent change in law under *Taxpayer Bill of Rights 2.* It is also believed that *extrinsic fraud* was committed by preventing disabled taxpayer from objecting before the *premature* Tax Court decision. Finally, it is believed that intentional or reckless *misconduct* committed on the part of the IRS employees (by conspiring together to deprive disabled petitioner of **$82,906** through IRS collection by delaying opportunity for due process hearing beyond the time period for collection by IRS) precluded timely resolution of the tax dispute, causing wasteful years of delay, unnecessary accumulation of interest and penalty on taxes assessed in favor of IRS.

The jurisdiction of this Court is invoked pursuant to *28 U.S.C. sect. 1254(1), 28 U.S.C. sect. 1346(a), 28 U.S.C. 2403(a),* and new *Taxpayer Bill of Rights 2 (enacted by 104th Congress).*

STATEMENT OF THE CASE

Factual Background

Referring to specific detailed facts presented at page A-10, IRS's (Muslim) auditor issued notices of tax deficiency by

arbitrarily denying all deductions in petitioner's (Hindu in appearance, but in fact Christian) individual federal income tax returns for years 1989, 1990, and 1991. The IRS action immediately followed the *Hindu-Muslim* riots in India. Petitioner's accountant, *Eric Woolery,* wrote to IRS that the IRS auditor, Nafisa Kasubhai, was *racially biased* towards the petitioner, and that petitioner's disability is likely to become aggravated based on medical declarations. In addition, the petitioner was seeking compromise on the tax dispute but was unsuccessful. IRS **ignored** the request to settle for the disabled, and the delay continued, with IRS maintaining that petitioners three businesses -construction, licensed daycare, and import/export - are not bonafide, despite the contrary subjective intent of the petitioner to make them profitable.

The Tax Court petitions were filed, amended, consolidated, and settlement stipulated without trial on the merits of the tax dispute. The stipulated settlement was *ambiguous* as it was **silent** on the material tax deductions indivdually identified by **separate** IRS Forms 3903 (moving expenses), 4797 (sale of business property), 2106 (travel expenses) in the amended tax court petition; during the preceding settlement conference, IRS trial attroney made it perfectly clearand represented that IRS intends to disallow **only** the business deductions on IRS Forms Schedule C and E, and nothing else. The petitioners understood that these omitted deductions were allowed as **condition** of the settlement agreement, because IRS trial attorney, as promised, objected to and disallowed

only Schedule C business and part of Schedule E rental business deductions, in exchange for the remaining omitted deductions:

TABLE 1 - OMITTED DEDUCTIONS

Omitted Deductions	1989	1990	1991
Moving Expenses in IRS Form 3903		***$13,950***	
Travel Expenses in IRS Form 2106		***$2,880***	***$22,560***
Sale of Bus. Prop. in IRS Form 4797	***$28,500***		

Tax court's limited jurisdiction precluded resolution of underlying collateral issues involving (1) *discrimination* by the IRS for targetting petitioner on account of race and disability, (2) *unconstitutionality* of the Internal Revenue Code as applied to disabled taxpayers, (3) *unauthorized practice of law* and prejudicial speculation of facts by the IRS agents, auditors, and appeals officers in connection with *grey* legal issue of whether Schedule C businesses were bonafide, and (4) problem in communication, understanding, and attitude with the IRS regarding settlement conference. Scope of review by Ninth Circuit seems limited to record on settlement agreement, not **prior oral condition** in the preceding settlement conference to include remaining deductions in the settlement .

On June 5, 1995, the Tax Court confirmed petitioner's permanent physical disability *(multiple sclerosis)* and its **progressive** nature under stress by questioning his doctor under oath and asked IRS to settle this matter in the next conference room.

Settlement conference was held among IRS's Nancy McCurley, her associate, petitioner and his spouse outside the Tax Court for about one hour. At this time, issues in the *IRS's Notice of Deficiency,* petitioner's trial memo, *amended petitions,* and letter from IRS appeals officer recommending amendment to tax court petition to itemize *omitted deductions* were reviewed and negotiated.

Petititioner agreed to settle, provided that the *remaining omitted deductions* were allowed in exchange for IRS's disallowance of all three schedule C business deductions and part of schedule E rental business deductions. IRS's Nancy McCurley agreed.

Settlement Agreement was orally read and rushingly stipulated before Tax Court on June 5, 1995 just before lunch, which *disallowed* all the three Schedule C business deductions, and *allowed* part of the Schedule E rental business deduction. During stipulation, IRS's Nancy McCurley did not ask, nor did she intend to, Court to disallow *omitted deductions*. **Had IRS disallowed any of the remaining deductions *(moving expenses, Schedule A,***

***travel expenses, loss on sale of business property),* petitioner would not have conceded to the settlement agreement**

To resolve the problem of *omitted deductions* with the ***ambiguous*** stipulated settlement, Tax Court's *Hon. Irene Scott* held a conference call between IRS's *Nancy McCurley* and petitioner, *Viney Gupta,* and stating that IRS should *be generous* and petitioner should show *fraud* with the settlement agreement *to rescind it.* However, stating that IRS would get 10% interest on tax regardless of delay, IRS's *Nancy McCurley refused* to meet with the petitioner and filed Motion for Entry of Decision without allowing any concession on the bargained-for omitted deductions.

In summary, from 1993 to 1997, IRS refused to accomodate the disabled taxpayer with an opportunity for a timely, fair, neutral, and independent determination of facts to facilitate amicable resolution of the tax dispute, notwithstanding the American Disability Act. IRS agents lacked *neutrality* to find facts to resolve grey legal issues, indulged in unauthorized practice of law, and conspired together to deny and delay disabled taxpayer due process beyond the time to collect taxes assessed after an erroneous Tax Court decision. IRS audits were biased and unconscionable in denying all the deductions arbitrarily; the IRS has no incentive to find facts and settle but to delay, until the *26 U.S.C. 6213, 6502, 6503, 6662(a)* are declared unconstitutional, i.e., statute of limitations to assess tax is reduced from three to one year, and the interest rate (and penalty) on taxes owed is reduced from about

10% to 2% or what the banks pay taxpayers. In Jan. 1993, Petitioner *Viney Gupta* became permanently disabled with multiple sclerosis, coincident with *racially-tainted* IRS tax audits on 1989, 1990, 1991 individual tax returns. The Tax Court determined that the tax trial might endanger life or health of disabled petitioner, after hearing testimony under oath from petitioner's physician that stress could cripple his *progressive* disabling condition. IRS settlement procedure did not *reasonably accomodate* the disabled taxpayer for a fair and neutral determination of facts *for amicable resolution* of the tax dispute. Tax Court decision favored IRS. The IRS demanded collection of $82,906 using threat of levy before the disabled taxpayer had due process opporunity to an evidentiary hearing on the merits of the tax dispute, particularly the omitted deductions.

Proceedings Below

On July 18, 1995, Tax Court granted the IRS's *Motion for Entry of Decision* which omitted material deductions in Table 1 for *moving expenses* (**$13,950** *for year 1990), travel expenses* (**$2,880** *for year 1990,* **$22,560** *for year 1991), and loss on sale of business property (***$28,500** *for 1989).* Tax Court and IRS district counsel *knew* about these so-called omitted material deductions as identified in an amended petition to the Tax Court, the Tax Court Order at page A-3, Letter of Recommendation from IRS appeals officer, petitioner's trial memorandum before Tax Court, and

telephone conference call in late June 1995 among petitioner *(Viney Gupta),* IRS district counsel *(Nancy McCurley, Esq.),* and Tax Court *(Hon. Irene Scott).*

Tamara Shottenstein of Tax Division **offered petitioner 10% abatement** in Tax Court decision to compensate for the omitted deductions. Petitioner responded that the omitted deductions are worth three times as much. The IRS intentionally harassed the disabled taxpayer by means of arbitrarily omitting material deductions, speculating facts, unauthorized practice of law, and delays designed to create uncertainty and stress so that the taxpayer's life is of lower quality and new businesses be driven to bankruptcy as the only alternative to avoid tax payment.

The court of appeals affirmed the Tax Court decision by holding that petitioner's *contention that settlement agreement omitted material deductions* (worth about $43,235.00 in tax refund out of $82,906 paid by petitioner) *lacks merit*, and that *Gupta presented no evidence of any other* ***condition*** *that would render enforcement of the stipulated agreement manifest injustice.*

REASONS FOR GRANTING THIS WRIT

Referring to the *evidence grid* in Table 4, petitioner contends that Tax Court decision was procured (a) by *extrinsic fraud* based on *lies* by IRS district counsel in her Motion for Entry of Decision *that "all issues are settled*", (b) by preventing

petitioner from objecting that stipulated agreement was *coerced* (by IRS opening *unrelated* 1992, 1993, 1994 original tax returns of petitioner during the settlement conference to force settlement on 1989, 1990, 1991 tax returns related to this petition) and *ambiguous* because it *omitted material deductions in Table 1,* for *moving expenses, travel expenses, and loss on sale of business property*, which were bargained for during the settlement conference but not specifically itemized and disallowed by IRS during the oral stipulation before the Tax Court, (c) by prematurely rendering it on July 18, 1995, even though Tax Court order at page A-3 allowed petitioner to file itemized objection to grant of IRS's Motion for Entry of Decision until Aug. 2, 1995.

I. IRREGULARITIES AT TAX COURT PROCEEDINGS CAUSED ERRONEOUS DECISION AND UNAUTHORIZED COLLECTION OF $82,906 BY IRS

Coupled with irregularities in tax court procedure, *manifest injustice* would result for the disabled petitioner under Tax Court *Rule 91(e),* if *omitted deductions* are not included to abate Tax Court decision by $43,235.

A. Petitioner should be awarded a tax refund of $43,235.00 out of $82,906.00 collected by IRS, under *28 U.S.C. sect. 1346(a)*

Stipulated settlement read orally before the Tax Court on June 5, 1995 disallowed all the tabulated Schedule C business losses:

TABLE 2 - DISALLOWED BUSINESS DEDUCTIONS

Sched. C Business	*1989 tax year*	*1990 tax year*	*1991 tax year*
Construction Bus. Loss	$43,393	$45,786	$28,188
Licensed Daycare	$19,637	$13,111	$5,993
Import/Export Business			$10,010

in exchange for allowing all the remaining deductions in the petition and the amended petition in the following table:

TABLE 3 - TAXES UNDER SETTLEMENT AGREEMENT INCLUDING OMITTED DEDUCTIONS

ITEM / Tax Year	1989	1990	1991
Taxable Income	$83,464	$81,840	$89,038
Sch. E rent loss	$16,833	$13,537	$12,500
Moving Expenses		***$13,950***	
Travel Expenses		***$2,880***	***$22,560***
Sale of Bus. Prop.	***$28,500***		
Taxable Income as settled	$36,131	$51,73	$53,978
Fed Tax @28%	$10,117	$14,440	$15,114
IRS Collected	*$29,477*	*$27,819*	*$25,610*
Refund Claimed	$19,360	$13,379	$10,496

Total payment collected by IRS from petitioner = $82,906

*Total refund claimed by petitioner = **$43,235***

B. Tax Court's failure to consider *the omitted deductions,* makes it's decision *clearly erroneous.*

A basic purpose of requiring *findings of fact* regarding petitioner's tax liability is to ensure that Tax Court decision to impose tax liability comes *after*, not *before*, a careful consideration of the evidence, e.g., omitted deductions. Court's conclusion or decision should follow from its serious appraisal of the facts, so as not to be arbitrary or capricious, or characterized by *abuse of discretion* or clearly unwarranted exercise of discretion.

Under the *clearly erroneous* standard, the Ninth Circuit must accept the lower court's decision unless it has a *"definite and firm conviction that a mistake has been committed." Dollar Rent-A-Car v. Travelers Indem. Co.*, 774 F.2d 1371, 1374 (9th Cir. 1985).

Petitioner contends that the court of appeals *erred* by affirming the tax court's decision without applying the *clearly erroneous standard (or Tax Court Rule 160)* or *the extrinsic fraud rationale,* that will lead to *conflicting* decisions among Courts of Appeals.

Had IRS disallowed the *(omitted)* deductions for "moving expenses, travel expense, loss on sale of businees property", petitioner would never have conceded to disallowance of all schedule C business deductions in the settlement agreement.

Petitioner gave up over $150,000 in tax deductions for business lossees following the US-Iraq crisis.

Petitioner argues that Ninth Circuit Panel has overlooked *irregularities* in Tax Court proceedings that caused serious mistakes. Tax *Court mistakenly missed* material deductions from its decision because it did not even have the opportunity to consider or determine omitted material tax deductions as existing disputed issues, not new issues, before rendering its decision on July 18, 1995, partly because the settlement agreement was *ambiguous* in that it did not itemize and explicitly disallow each material deduction in dispute. In addition, the IRS district counsel *lied* in its *Motion for Entry of Decision* that *"all issues are settled". Abuse of discretion* standard in *Bail Bonds v. Commissioner of Internal Revenue,* 820 F.2d 1543 (9th Cir. 1987) does not **apply *before,* but after,** consideration of the omitted deductions by the Tax Court.

Pursuant to *28 USCA Sec.2111,* petitioner further argues that the gravity of the Tax Court error or mistakes cost him **$43,235** in tax refund, since the IRS has already collected $82,906 in June 1996 under the erroneous Tax Court decision using threat of levy.

Tax Court errors have implicated substantial rights of petitioner.

By statute, this Court must disregard lower court *"errors or defects which do not affect the substantial rights of the parties."* [28 USCA Sec. 2111]. The court of appeals did not look through the record for foregoing errors, even though *substantial injustice* has

been done: the IRS ruined petitioner's health by aggravating his disability from Jan. 1993 to present with speculative audits, ambiguous settlement agreement, unreasonable delays, and harsh interest and penalties on taxes assessed. This occurred without stipulating documents or findings of fact to afford *reasonable accomodation* for an ***amicable resolution*** of tax dispute in the spirit of *Americans with Disability Act.*

C. Irregularities in Tax Court proceedings coupled with intentional misconduct of IRS district counsel are sufficient to constitute *extrinsic fraud.* Omitted deductions were prevented from judicial determination by Tax Court prior to its July 18, 1995 decision.

Tax Court *mistakenly* failed to include omitted deductions as itemized and submitted by the petitioner on July 24, 1995, pursuant to Tax Court order (at A-3) before August 2, 1995, by mistakely rendering its premature decision on July 18, 1995. Tax Court clerk was **unable to file** petitioner's objections on July 24, 1995 after the Tax Court had already rendered its decision on July 18, 1995.

Tax Court decision was marred by the fraudulent conduct of the IRS district counsel, *Nancy McCurley,* who intentionally **omitted** these material tax deductions from her *Motion for Entry of Decision* and **lied** to the Tax Court that *"all issues are settled".* Before filing her motion, *Nancy McCurley* refused to meet

petitioner to settle the omitted issues stating that *"IRS gets 10% interest and penalty on taxes assessed regardless of delay"*.

The irregularities (see items 1-3 of Table 4 at A-13) in tax court proceedings are, arguably, sufficient to *constitute extrinsic fraud*, because the disabled taxpayer pro se was prevented from a *fair chance* of including omitted deductions in the Tax Court decision. Based on doctor's testimony in court on June 5, 1995, Tax Court *knew* of the petitioner's disability and his inability to participate in trial to determine omitted deductions.

By rendering premature decision *on July 18, 1995,* the Tax Court violated its own order at page A-3, which ordered petitioner to itemize and include omitted tax deductions as part of the settlement agreement. In *the Motion for Entry of Decision*, the IRS district counsel had *lied* to the Tax Court that *"all issues are settled"* for the purpose of suppressing the omitted deductions. Upon receipt of IRS's motion, petitioner immediately opposed the motion because all issues were not settled. *Later, petitioner received the Tax court order (at page A-3).* The Tax Court decision at page A-4 mentions petitioner's opposition but not the forthcoming objections pursuant to its Order. Petitioner *relied* on the Tax Court Order for the opportunity to file itemized objection to entry of decision for the purpose of including the omitted deductions as part of the bargained-for settlement agreement, unless there is a severe *problem with communication and understanding and attitudes* between the parties, e.g., during the immediately

preceding settlement conference. Nevertheless, petitioner's objections reached the Tax Court on July 24, 1997, before the August 2, 1995 deadline under the Tax Court Order, but after the July 18, 1995 premature Tax Court decision.

Allowance of the remaining (omitted) deductions was a condition of the settlement agreement. For IRS to change their mind about disallowing additional deductions, and disallow some of the remaining deductions after the fact is unconscionable, because IRS should have disallowed every IRS form with a deduction claimed by the petitioner: Form 3903 (moving expenses), Form 4797 (sale of business property), Form 2106 (travel expenses). Each omitted deduction was clearly identified by its own separate IRS form in the amended tax court petition, which IRS trial attorney could have easily objected to before the Tax Court, instead of arbitrarily excluding and suppressing them from the decision. IRS trial attorney clearly told the petitioners during the settlement conference that she intends to disallow only Schedule C and part of Schedule E in exchange for the remaining deductions. For Tax Court to render decision without allowing the omitted deductions on IRS Forms 3903, 4797, 2106 is *manifestly unjust.*

Under these circumstances, the Tax Court was *aware* that petitioner was required to object and would rely on Court's consideration to include omitted tax deductions. The Tax Court *knew* the specific purpose for which objections were ordered.

The Supreme court should accordingly hold that there were *irregularities* in the Tax Court proceedings, precluding the petitioner an opportunity to have the tax court determine and include *omitted deductions* in the Tax Court decision.

D. The Fifth Circuit Court of Appeals decision in *Bass, Armour & Co* Conflicts with the Ninth Circuit's Ruling in this Case based on *Bail Bonds.*

In *U.S. v. Armour & Co.,* 402 U.S. 673, 681 (1971), and *Bass v. Phoenix Seadrill,* 749 F.2d 1154, 1164 (5th Cir. 1985), the courts enforced settlement agreements as a means **to *facilitate amicable resolution*** *of dispute*. However, the Ninth Circuit Panel enforced the *present* settlement agreement before this Court by omitting material issues, **without facilitating** amicable resolution; this is also *inconsistent with substantial justice* under *Tax Court Rule 160.*

II. Petitioner is entitiled to one million dollars in civil damages *under 26 U.S.C. sect. 7433* for unauthorized collection by IRS

Pursuant to erroneous Tax Court decision, while appeal to Ninth Circuit was pending, IRS Fresno collected using threat of levy **$82,906** from petitioner's children education fund.

Under *26 U.S.C. sect. 7433,* the federal government waives *soverign immunity* where *"in connection with any collection of Federal tax ... any officer or employee of the Internal revenue Service recklessly or intentionally disregards any provision of this title."* Failure to exhaust administrative remedies does *not* bar suit filed after July 30, 1996, under *sect. 7433(d)(1).* The petitioner has already filed a claim for refund administratively with the IRS Fresno (CA) for **$43,235** plus interest as of *March 13, 1997,* but has received no response.

The IRS's collection of *$82,906* from petitioner under threat of levy was an *unauthorized collection* within the meaning of Sect. 801 of *Taxypayer Bill of Rights 2,* because the following allegations show *intentional or reckless disregard* of specific provisions of the Internal Revenue Code by IRS agents, whose conduct did not support the U.S. Constitution.

a. The Tax Court decision was *not final*, and the IRS used threat of levy to collect,

b. *Tamra Shottenstein* of Tax Division's appellate section offered petitioner 10% abatement of the Tax Court decision prior to collection by IRS, because the IRS had *actual knowledge* that Tax Court had made a clear error of arbitrarily excluding material deductions in Table 1 fron the settlement agreement,

c. The IRS failed to meet the burden of overcoming the presumption that petitioner's *construction business* was

bonafide within the meaning of the Internal Revenue Code, 1.183-2(b)(1),

d. Omission of material tax deduction was inconsistent with substaintial justice under *Tax Court Rule 160,* and

e. Under Taxpayer Bill of Rights 2, the IRS was *not substantially justified* in maintaining that petitioner's businesses were not bonafide as violative of the presumption period under sect. 183 of I.R.C. because petitioner's consruction business was profitable for more than three years out of five.

f. The deficiency assessments may be barred by the three-year statute of limitations set forth in *26 U.S.C. §6501(a);* petitioner filed 1989 and 1990 tax returns in early 1990 and 1991, but IRS filed statutory notices of deficiency three years later: on Jan. 5, 1993 for 1989 tax year, and on Feb. 17, 1994, for 1990 tax year. ***Strong v. Commissioner Internal Revenue Service,*** 9th Circuit 94-70818. The three-year statute of limitations under *26 U.S.C. §6501(a)* should be construed broadly in principle in favor of disabled taxpayer to prevent manifest injustice, by invalidating deficiency assessments for 1989 and 1990 tax years, because but for the irrational, almost 3-year late deficiency assessments, petitioner's disability would not have been aggravated.

g. IRS agents lacked neutrality and expertise to resolve tax dispute, conspired together and engaged in unauthorized practice of law, causing wasteful years of delay, while collecting accumulated interest and penalty on taxes assessed for the disabled taxpayer.

Petitioner prays that this Court award a refund of more than $43,235 collected by the IRS for the 1989 and 1990 tax years under threat of levy for barred deficiency assessments alone.

A. IRS agents conspired together to discriminate and deprive disabled taxpayer of property on account of race and disability.

From IRS audits in January 1993 until collection by IRS in June 1996, the IRS agents conspired together with the intent to deprive disabled the taxpayer of his property by over-assessing tax, interest, and penalty by nearly 100%. IRS agents *Kris Bodner* and *Rudolph Jennings* indicated that they were predisposed on the findings by the first IRS auditor, *Nafisa Kasubhai,* and refused to meet with the petitioner or his attorney, *Deanna S. Epstein,* to resolve and settle the tax dispute. IRS trial attorney, *Nancy McCurley*, relied on the legal brief prepared by IRS auditor, a non-lawyer, as an unauthorized practice of law regarding grey legal issue of whether Schedule C businesses of petitioner were bonafide. IRS trial attorney, *Nancy McCurley*, refused to meet with petitioner and his accountant to stipulate documents or discuss issues before tax court trial of June 5, 1995, and to resolve the omitted deductions before the tax court decision on July 18, 1995.

Tamara Shottenstein of Tax Division **offered petitioner 10% abatement** in Tax Court decision to compensate for the

mistake of omitting deductions. The Petitioner responded that the omitted deductions are worth three times as much. IRS intentionally harassed the disabled taxpayer by means of denying all deductions initially, omitting material deductions, speculating facts, unauthorized practice of law, and delays designed to create uncertainty and stress so that he could not lead a productive life.

In summary, the IRS audits, appeals, tax court proceedings, and appeal to Ninth Circuit, were more likely than not skewed in favor of the IRS, as part of a IRS conspiracy to delay and deny (disabled) taxpayer due process and collect taxes under erroneous tax court decision. It is believed by the taxpayers that only the more wealthy Americans can stay IRS collection by posting an *appeal bond,* and pay for the cost of litigation involving accountants and trial attorneys.

B. IRS is *not* accountable under 42 U.S.C. sects. 1981, 1983, 1985, and 1986, nor under 42 U.S.C. sects. 12111, 12131, 12181, of the Americans with Disabilities Act (ADA), nor under Federal Tort Claims Act: *28 U.S.C. sect. 2680(c)*

Petitioner, an Asian Asian by race, was targetted by IRS after Presidential election in late 1992 and radio news announcement that *"Asians do not pay enough tax"*. The IRS auditor *arbitrarily denied* the petitioner all business deductions for 1989, 1990, 1991, notwithstanding the unforeseeable economic

slump after the US-Iraq crisis. IRS audits were a substantial factor in causing petitioner to shut down the businesses. IRS audits and delays definitely aggravated and prolonged petitioner's disability (multiple sclerosis). IRS **ignored** several notices from physicians regarding petitioner's disability and its susceptibility to stress, by refusing timely and neutral resolution of the tax dispute. Lack of standard IRS policy and accountability under ADA leads IRS to procrastinate and pass the buck to the Courts with built-in delays.

Disability of the petitioner precluded judicial determination of issues underlying the omitted deductions after Tax Court heard a physician testify that *petitioner's disability is permanent and can cripple him under stress of trial*. Tax Court did excuse petitioner from trial, but the IRS trial attorney omitted material deductions without any reasonable accomodation to resolve them. For disabled taxpayers, there has to be an alternative to tax dispute resolution with IRS: *private* arbitration or mediation or flat consumption tax, especially when Tax Court lacks time and IRS agents lack *neutraliy,* expertise, and incentive to expedite settlement, and the complex Internal Revenue Code allows *wasteful* years of delay (upto 3 years to assess tax, 10 years to collect tax with harsh rates of interest and penalty).

III. Internal Revenue Code section, e.g., *26 U.S.C. sect.. 6213, 6502, 6503, 6662(a)* are *unconstitutional as applied* to disabled taxpayers

These statutes give the IRS three years to assess and 10 years to collect taxes, with harsh rate (about 10%) of interest and penalty (sect 6662(a) of I.R.C.), which are particularly detrimental to disabled taxpayers.

Tax court denied disabled taxpayer an evidentiary hearing to determine his tax liability so as not to aggravate his disability. Consequently, the *omitted deductions* remain unsettled, even today. The IRS is not accountable under the Americans with Disability Act to make timely, neutral, fair, reasonable accomodation to find facts, stipulate documents, and to facilitate amicable resolution of the tax dispute. Harsh interest and penalties on owed taxes with built-in wasteful years of delay is detrimental to the life and health of many disabled taxpayers, making the current Internal Revenue Code unconstitutional as applied to disabled taxpayer. The IRS purposely evades finding facts to cause delay beyond collection.

The U.S. Constitution mandates that a person is innocent until proven guilty. Yet, the IRS targetted the disabled petitioner, arbitrarily denied all the deductions to maximize tax assessment, refused timely, fair and neutral determination of facts to resolve the tax dispute, issued notice to levy and collected money which destroyed the taxpayer before he could prove his innocence. Taxpayers are deemed guilty until proven innocent, despite the Constitution. These IRS auditors were not neutral, lacked expertise, motivated with racal bias, engaged in unauthorized

practice of law with grey legal issues in the complex IRS code, and prejudicially speculated on facts instead of discovery.

In early 1997, General Accounting Office (GAO) advised Congress that there *was delay, abuse, fraud, waste with IRS* audits and irregular procedures, a judicially noticed fact in the news. In Oct. 1996, both *Ross Perot and Steve Forbes,* presidential candidates, asked for public support to *abolish the IRS,* but since IRS targets only 4% of taxpayers, enough votes are unlikely to win an election. This Court can set the precedent to make the difference in regulating IRS and Tax Court procedures, especially for the disabled taxpayers on account of compelling circumstances, to alleviate extreme hardship and government waste in collecting taxes; more than dozen IRS agents have worked on this case alone.

In Sept. 1993, the IRS's *Nafisa Kasubhai* was informed of petitioner's disabling condition by letter including medical declarations, but IRS ignored the request for timely determination of facts so as not to aggravate his disability. Petitioner's loss of actual wages from Jan. 1993 to present of **$395,000** is attributable to IRS's *unconscionable* audits, irregular procedures, excessive discretion in evading amicable resolution and delaying resolution, and discrimination against disabled taxpayer and aggravating his disability.

IRS's refusing timely, fair, and neutral determination of facts to resolve tax dispute for the disabled taxpayer, knowing disabling condition is susceptible to stress, and 2) Tax Court

mistakenly failed to include omitted deductions as itemized and submitted by the petitioner on July 24, 1995, pursuant to Tax Court order (at A-3) before August 2, 1995, by mistakely rendering its premature decision on July 18, 1995. Tax Court clerk was unable to file petitioner's objections on July 24, 1995 after the Tax Court had already rendered its decision on July 18, 1995 constituted *misconduct* under section 1211 of *Taxpayer Bill of Rights 2.*

CONCLUSION

U.S. Constitution seemingly exempts IRS from Hitler-like arbitrary economic persecution of (disabled) taxpayers (45 million in USA are disabled), for whom Tax Court trials, IRS's audits, delays, interest rate of 10%, and penalty are too harsh, burdensome, and detrimental to their health and economic welfare. Moreover, IRS is *not* accountable under either Americans with Disability Act or tax court's limited jurisdiction, where underlying collateral issues go unresolved. **Equal protection arguments** raised here is of exceptional importance for the permanently disabled taxpayers. Towards the disabled taxpayers, the standard for conduct of IRS employees in *26 U.S.C. sect 7433* should be lowered from *reckless disregard* to *gross negligence* with regard to violations, similar to the case of doctors, in the absence of Americans with Disability Act, because of extreme hardship (effect of delay, excessive interest and penalty on the taxpayer) and compelling circumstances (danger

to taxpayer from tax court trial). Timely, neutral, independent, fair, and expert determination of facts is not currently provided by IRS auditors, who indulge in unauthorized practice of law and prejudicial speculation of facts in grey areas of the Internal Revenue Code. Tax Court did not resolve the tax dispute for the disabled petitioner. Tax Court decision was rigged in favor of IRS by using irregular proceedings to exclude material deductions from the settlement agreement, by imposing ambiguous settlement agreement, a: ' by enforcing collection without fair and neutral determination of excluded material deductions for the disabled petitioner.

Tax Court decision and Court of Appeals opinion give **no clues or answer** to the fundamental problems of *communication, understanding, and attitude* with IRS agents. Settlement agreement was incomplete. Material deductions were omitted. IRS arbitrarily excluded them from its motion for entry of decision. Tax Court arbitrarily denied consideration of omitted deductions erroneously labelling them as *new* issues in it's decision The Court of Appeals failed to recognize *materiality* of the omitted deductions or prior oral condition to the settlement agreement to include them. General Accounting Office calls such IRS conduct as wastefule, abusive, and fraudulent. Bail Bonds is distinguishable on the facts and does not apply when Tax Court made no findings of fact on whether omitted deduction were material and parties intended to include them as a condition of settlement agreement, since there is

no amicable resolution of the tax dispute. Tax Court knew of the problem with the omitted deductions when it issued the Tax Court Order, but did not wait for its decision until petitioner could object that settlement agreement was contingent on the allowance of omitted deductions.

IRS's muslin auditor, Nafisa Kasubhai, was racially motivated, successfully targetted petitioner, conspired with other IRS agents who did not purge the racial bias of the audits, and Tax Court and Ninth Circuit could not hold IRS accountable: the burden to prove that petitioner's construction business is not bonafide shifted to IRS once petitioner proved it made profit for three years out of five (shown in the amended tax court petition). Before a future president, like Ros Perot or Steve Forbes, abolishes IRS agency and simplifies IRS complexity, replacing it partly with *flat consumption tax* for people with annual gross incomes of less than $50,000, this Court should set a precedent to make the IRS policy more neutral and fair.

Irregularities in tax court proceedings should be reviewed to avoid inconsistent and conflicting decisions among courts of appeals; though outside the scope of appellate review, collateral issues - conspiracy among IRS agents to assess excessively high taxes, arbitrary denial of deductions without neutral finding of facts, fraud, abuse, and wasteful years of delay - are a major source of irregularities.

For the above-stated reasons, the petitioner respectfully requests that this Court grant their petition for a writ of certiorari.

The Supreme Court should reverse the Judgment of the Court of Appeals and remand the cause for a new trial. In the alternative, this Court is respectfully requested to abate the Tax Court decision, grant the petitioner an award of $43,235.00 in tax refund (under 28 U.S.C. 1346(a)), and an additional award of $395,000.00 in civil damages (under 26 U.S.C. 7433).

Dated: *July 30, 1997*

Viney Gupta
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Costa Mesa, CA 92628

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

VINEY K. GUPTA; SAROJ GUPTA	) No. 95-70735
Petitioners-Appellants,	) IRS No. 4673-94
v.	)
COMMISSIONER OF INTERNAL	) No. 95-70736
REVENUE,	) IRS No. 4707-93
Respondent-Appellee.	)
	)

Appeal from the United States Tax Court

Submitted March 11, 1997

Before: SNEED, LEAVY, and THOMAS, Circuit Judges

Viney and Saroj Gupta appeal pro se the Tax Court's decision finding deficiencies in their federal income taxes for 1989, 1990, and 1991 in accordance with a stipulated agreement that was read into the record. We have jurisdiction pursuant to *26 U.S.C. sect. 7442,* and we affirm.

The Gupta's contend that the stipulated settlement should not be enforced because it omitted the deductions claimed in their amended petition to the Tax Court. This contention lacks merit.

The Tax Court's enforcement of a stipulation is reviewed for abuse of discretion. See *Bail Bonds by Marvin Nelson, Inc. v.*

Commissioner, 820 F.2d 1543, 1547 (9th Cir. 1987). A stipulation is treated as a conclusive admission by the parties to the stipulation unless otherwise permitted by the court or agreed upon by those parties. See Tax Ct. R. *91(e).* The Tax Court will not permit a party to a stipulation to qualify, change, or contradict a stipulation in whole or in part, unless manifest injustice will result. See *Bail Bonds,* 820 F.2d at 1547,; Tax Ct. R. *91(e).*

Here, the Guptas negotiated the terms of, and stated that they agreed to, the stipulations that were read into the Tax Court's record. In addition, the Guptas have not presented any evidence that their consent was procured by fraud, coercion, or any misconduct by the government. Moreover, the Guptas presented no evidence of any other condition that would render enforcement of the stipulated agreement manifestly unjust. Accordingly, the Tax Court did not abuse its discretion by entering decision pursuant to the stipulated agreement. See *Bail Bonds*, F.2d at 1548; Tax Ct. R. *91(e).*

AFFIRMED.

UNITED STATES TAX COURT
WASHINGTON, D.C. 20217

VINEY K. GUPTA; SAROJ GUPTA Petitioners, v. COMMISSIONER OF INTERNAL REVENUE, Respondent.	)	Docket No. 4673-94

ORDER

On July 10, 1995, respondent filed a motion for entry of decision in which she requests that the Court enter a decision in the above-entitled case pursuant to the agreement of the parties which was stated to the Court on June 5, 1995, and appears in the transcript of the record of that date. There is attached to the motion a computation which respondent states is in accordance with the agreement of the parties. The premises considered, it is

ORDERED that petitioners are allowed to and including August 2, 1995, within which to notify the Court of *any objection* to the granting of respondent's motion, and if there is an objection, specifically stating to which item the objection goes and the basis for the objection.

(signed)
Irene F. Scott
Judge

Dated: Washington, D.C.
July 12, 1995

UNITED STATES TAX COURT
WASHINGTON, D.C. 20217

VINEY K. GUPTA; SAROJ GUPTA	)	
Petitioners,	)	Docket No. 4673-94
v.	)	
COMMISSIONER OF INTERNAL	)	
REVENUE,	)	
Respondent.	)	

ORDER AND DECISION

On July 10, 1995, respondent filed a *motion for entry of decision,* to which was attached a proposed decision. In her motion, respondent stated that the decision attached to the motion and the request for entry of decision in the motion were in accordance with the agreement of the parties stipulated into the record when this case was recalled for trial on June 5, 1995, but that petitioners had *refused to sign* the document, not on ground that it was *not in accordance with the stipulated agreement* of settlement, but on the ground that they wished to have the stipulated settlement agreement *reconsidered.*

On July 14, 1995, petitioners filed an opposition to respondent's motion for entry of decision in whcih they requested that the decision proposed by respondent *not* be entered, but that a computation which was included in their opposition to respondent's

motion for entry of decision be made the basis of the Court's decision.

In this opposition to respondent's motion, petitioners state that the basis of settlement stipulated in the record omitted material new issues on which they believed they were entitled to a trial. We interpret petitioners' opposition to admit that respondent's proposed decision is in accordance with the stipulation entered orally into the record on June 5, 1995, to which the parties stated agreement. Petitioners have shown no justification for not abiding by the settlement agreement of the parties stipulated into the record on June 5, 1995. The premises considered, it is

ORDERED that respondent's motion for entry of decision is granted. It is further

ORDERED AND DECIDED that there are deficiencies in income tax due from the petitioners for the taxable years 1990 and 1991 in the amounts of $14,830.00 and $15.017.00, respectively; and

That there are additions to the tax due from the petitioners under the provisions of I.R.C. section 6662(a) for the taxable years 1990 and 1991 in the amounts of $2,996.00 and $3.003.00

(signed)
Irene F. Scott
Judge

Entered: JUL 18, 1995

STATUTES INVOLVED

Taxpayer Bill of Rights 2

(as approved by the House Ways and Means Committee), [Report No. 104-506] amended the Internal Revenue Code of 1986 to provide for increased taxpayer protections, enacted MARCH 28, 1996, provides:

SEC. 301. Expansion of authority to abate interest: *26 U.S.C. sec. 6404(e)(1)*

SEC. 701. United States must establish that its position in proceedings was substantially justified: *26 U.S.C. 7430(c)*

SEC. 801. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.

(a) GENERAL RULE.--Subsection (b) of section 7433 (relating to damages) is amended by striking "$100,000" and inserting "$1,000,000."

(b) EFFECTIVE DATE.--The amendment made by subsection (a) shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 802. COURT DISCRETION TO REDUCE AWARD FOR LITIGATION COSTS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES.

(a) GENERAL RULE.--Paragraph (1) of section 7433(d) (relating to civil damages for certain *unauthorized collection* actions) is amended to read as follows:

"(1) AWARD FOR DAMAGES MAY BE REDUCED IF ADMINISTRATIVE REMEDIES NOT EXHAUSTED.--The amount of damages awarded under subsection (b) may be reduced if the court determines that the plaintiff has not exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service."

(b) EFFECTIVE DATE.--The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 1211. REPORTS ON MISCONDUCT OF IRS EMPLOYEES.

On or before June 1 of each calendar year after 1996, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on--

(1) all categories of instances involving the *misconduct* of employees of the Internal Revenue Service during the preceding calendar year, and

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(b) EFFECTIVE DATE.--The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 1211. REPORTS ON MISCONDUCT OF IRS EMPLOYEES.

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(1) all categories of instances involving the *misconduct* of employees of the Internal Revenue Service during the preceding calendar year, and

(2) the disposition during the preceding calendar year of any such instances (without regard to the year of the misconduct).

42 U.S.C. sects. 1981, 1983, 1985, and 1986

These do not apply to actions against the United States. The IRS is not accountable thereunder.

42 U.S.C. sects. 12111, 12112, 12131, 12181, of the Americans with Disabilities Act (ADA), under Federal Tort Claims Act (FTCA): *28 U.S.C. sect. 2680(c)*

The IRS is *not* accountable under these statutes. The United States is exempted from the definitions of *covered entity*, *public entity,* and *public accomodation* under ADA, articles I, II, and III, respectively. Under *28 U.S.C. sect. 2680(c),* claim under FTCA is excluded for conduct *related to the assessment or collection of any tax.*

26 U.S.C. §6501(a)

Tax deficiency assessments are barred by the three-year statute of limitations set forth in *26 U.S.C. §6501(a), i.e.,* for taxes assessed more than 3 years after tax return is filed.

SUMMARY OF UNDISPUTED MATERIAL FACTS

A.. During Settlement Conference, outside the tax court

1. IRS trial attorney, *Nancy McCurley,* expressed the intent to disallow only Schedule C and part of Schedule E deductions in exchange for allowing the remaining deductions,
2. I agreed to IRS's above disallowances on condition that the remaining deductions (moving expenses, travel expenses, loss on sale of business property) be allowed by IRS.
3. I proved to IRS that the schedule C construction business was profitable for 1992, 1993, 1994, i.e., more than two out of five years, satisfying the I.R.C. sect. 183 presumption, shifting the burden to IRS to prove otherwise. I further stated that IRS was not substantially justified in maintaining the position that the construction business was not bonafide.

B. Before the Tax Court, stipulated agreement on June 5, 1995

1. While stipulating before the Tax Court, IRS trial attorney disallowed all of IRS Schedule C and part of Schedule E business deductions, but did not disallow the deductions for moving expenses (Form 3903), travel expenses (Fprm 2106), loss on sale of business property (Form 4797) then in dispute, as agreed to earlier during the settlement conference.

2. Had IRS disallowed any deductions other than Schedule C and part of Schedule E rental business deduction, I would not have conceded to the settlement agreement.

C. IRS Misconduct and Conspiracy with intent to discriminate/defraud disabled taxpayer

- In early 1993, local Radio news announced that according to President, *Asians do not pay enough tax*, indicating that *IRS should target them.*

- In late 1992, IRS auditor (N. Kasubhai, muslim by race) did:

1. audit my 1989 tax return, and asked to audit 1990 and 1991,
2. meet my accountant (CPA), *Eric Woolery,* who observed and wrote to IRS that the muslim IRS agent seems motivated by Hindu-Muslim riots in Dec. 1992 against me, mistaking me (Christian) as Hindu,
3. call my mom twice, a 78-year old mother, threatening that I owe IRS $50,000 for 1989, when, in fact, as Tax Court later determined in July 1995, I owed less than one-third, i.e., $15,000.
4. later talk to me in Jan. 1993, about Hindu-Muslim riots, after I had just returned from Christmas vacation in India, indicating that she intends to get me for $50,000; I

immediately asked for and talked to Gary Artis, her supervisor, and expressed my concern. Within a week, IRS issued notice of deficiency denying all the deductions.

- Other IRS agents did the following.

5. In Feb. 1994, IRS Appeals Officer in Laguna Niguel, CA, Kris Bodner, stated that she is bound by denial of deductions by IRS auditor, N. Kasubhai, and refused to meet my attorney, D. Epstein to resolve, e.g., **whether Sch. C businesses are bonafide**
6. In May 1994, IRS's Nancy McCurley, continued Tax Court Trial, to consolidate pending audits for 1990, 1991 with 1989, after I filed trial memo in Tax Court
7. In Sept. 93, I wrote to IRS's Nafisa Kasubhai about my disabling medical condition, progressive with stress, to avoid delay in settlement, but IRS **ignored** request, refused to stipulate documents.
8. In Oct. 94, IRS Houston Appeals officer, *Rudy Jennings,* allowed part of Schedule E rental business loss, prepared a legal brief as *unauthorized practice of law* disallowing all Schedule C business deductions, and recommended amending petition to include "moving expenses, travel expenses, loss on sale of business property" (referred to as *omitted deductions),* but stated he is bound by IRS's N.

Kasubhai on disallowance of all Schedule C business deductions.

9. In May 1995, Marlene Meister (Kaye, Kotts & Assoc.) says IRS' Nancy McCurley refuses to meet for offer and compromise

10. In Feb. 1995, Tax Division's *Tamra Shottenstein* says IRS Problem Resolution Office in Laguna Niguel, CA, won't agree to settle, gives their phone number to me, and verbally offers me 10% to abate Tax court assesesment by 10% to compensate for the omitted deductions (worth almost 50%); this **10% offer** clearly indicates that IRS **knew** that Tax Court had made a **mistake** in omitting material deductions, and that IRS was not substantially justified in not settling the tax dispute under *Taxpayer Bill of Rights 2.*

11. In June 1995, IRS Fresno sent me *Notice to levy* and collected $82,906 under errneous tax court decision dated July 18, 1995.

TABLE 4: *Evidence Grid*

Issue	*Evidence*	*Document / Basis*	Ite
Ambiguous Settlement Agreement	Omits Material Deductions, see Table 1	*Amended Petition* to Tax Crt, filed to include deductions on separate IRS Forms 3903, 4797, 2106.	1
Extrinsic Fraud, prevented petitioner from filing objections	IRS attorney lied to Tax Court: " all issues are settled"	in *Motion for Entry of Decision* in Tax Court, filed July 10, 1995, without omitted deductions	2
Tax Court Violated its Order	Orders taxpayer to file objection before Aug. 2, 1995	Tax Court decision on July 18, 1995, before Aug. 2, 1995, in violation of its Order	3
Claim for Tax Refund	$43,235.00, see Table 2	*28 U.S.C. 1346(a). Using threats,* IRS collected $82,906 in June 1995 from children education trust	4
Civil Damages under Taxpayer Bill of Rights 2, sec. 801	up to *one million* dollars in lost wages, pain, and suffering	*26 U.S.C. sect. 7433:* "unauthorized collection," civil conspiracy with intent to defraud disabled petitioner by omitting deductions	5
Misconduct by IRS agents: lack of neutrality, try unauthorized practice of law, prejudicial speculation of facts	IRS attorney lied to Tax Court, refused to meet petitioner to resolve omitted deductions.	*Taxpayer Bill of Rights 2,* sec. 1211 IRS agents conspired together to deny and delay due process to find facts, stipulate documents. Eric Woolery (CPA) wrote to IRS about racial bias of auditor. IRS's Nancy McCurley, Esq. stated "IRS gets 10% interest regardless of delay".	6
Racial discrimination, 5th Amendment	IRS auditor denied all deductions on 1989, 1990, 1991 tax returns	In Jan. 1993, President quoted on radio news that *Asians do not pay enough tax,* alluding IRS to *target* Asians for taxes, after Hindu-Muslim riots in India.	7